

LAWS ON HEALTH AND MARRIAGE

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THE Council of the *Society* has appointed a committee to draw up a pre-nuptial health schedule which can be voluntarily exchanged by persons contemplating marriage. This will probably be issued before the end of the year and may be ready for publication in the January issue of the REVIEW. A summary of the literature upon health certificates before marriage, which I prepared for the committee, was published under the title of "Fitness for Marriage" (April 1935, p. 33). In this article I propose to deal with the laws which have been passed in other countries bearing upon health and marriage. Legislation on this subject exists in Turkey, Germany and the Scandinavian countries.

TURKEY

It is perhaps a surprising fact that the most comprehensive law is that which operates in Turkey. This was framed in the light of articles 123 and 124 of the Turkish "Law on Public Hygiene." I am much indebted to Professor Refik Saydam for a French translation of these articles and of the official Turkish Memorandum on the pre-nuptial medical examination. These documents run as follows :

Law on Public Health : Article 123. The marriage is forbidden of persons afflicted with syphilis, gonorrhœa, soft chancre, leprosy or mental disease. The marriage of such persons can only be celebrated after it has been proved by a medical certificate that the danger of contamination has been removed or that a definite cure has been established as a result of treatment duly applied.

Article 124. The marriage of persons afflicted with advanced and transmissible tuberculosis is to be delayed by six months. If during this period improvement is not established, the marriage must again be delayed for six months. At the end of this

period the medical authorities involved are bound to inform the betrothed couple of the danger of the illness and the inconveniences of marriage.

RULES FOR PRE-NUPTIAL MEDICAL EXAMINATION

Article 1. The pre-nuptial medical examination is free in all offices and sanitary establishments of the State. Official doctors are bound to conduct the pre-nuptial examination without a fee only in the above-mentioned offices and establishments.

Article 2. Certificates of health, delivered by private and official doctors, other than those in the service of the Government, will not be valid unless they are legalised by these last. Before legalising the above-mentioned certificates, the Government doctors will make a search through the official registers to ascertain whether the candidates for marriage are or are not afflicted with any of the diseases which, according to articles 123 and 124 on the law on public hygiene, are specified as prohibiting marriage. The certificates of health which do not carry the official seal of the Bureau of the Government Doctor, as well as his signature, will not be valid.

Article 3. The pre-nuptial medical examination is to be carried out in the manner mentioned below : The doctor will examine, before everything else, the general condition and exterior habitus of the candidate for marriage ; and, in the event of his not having noticed symptoms or signs which justify suspicion of the existence of one of the diseases mentioned in articles 123 and 124 of the law on public hygiene, the examination of men will be conducted differently from that of women.

Article 4. Examination of Men :

1. In the mouth : mucous membrane of cheeks and lips. The tongue and its lower

surface. The vault of the palate and the pharynx.

2. The skin of the thorax, the abdomen and back. (These regions will be examined in the naked state.)

3. The lymph glands of the axilla, the groin and the elbow.

4. The sex organ: presence or otherwise of secretion following pressure of the urethra.

5. The knee jerks will be examined with attention.

Article 5. The examination of the mouth of women will be identical with that of men. In the case of virgins, besides the examination of the mouth, the doctor will limit himself to the examination of the lymph glands of the elbow.

Article 6. If, in the course of the examinations mentioned in articles 4 and 5, above, there are found indications or reasons justifying the suspicion that the candidates for marriage are afflicted with one of the diseases preventing marriage; or if the above-named examinations do not prove satisfactory, the medical examination will be furthered in the following manner: If tuberculosis is suspected, the thorax will be percussed and auscultated and sputum will be collected in the presence of the doctor. In the event of syphilis being suspected, a specimen of blood will be taken in the manner indicated in the special chapter of instructions bearing upon the treatment of syphilis; in the event of gonorrhœa being suspected, the secretion of the urethra will be collected. Blood and urethral secretion will be sent to a laboratory to be examined. In the event of leprosy or mental diseases being suspected, the doctor will pursue his investigations along the usual lines conforming with scientific procedure; to reach a decision he can, if necessary, send the candidate to a specialist. In those localities where laboratory examinations are not made, the doctor will mention the fact in his report.

Article 7. The materials for analysis are sent, under seal, to the relevant establishments, with a confidential report, and by a method over which the candidate under examination has no control. In like manner

the doctor will be informed by a confidential report of the results of the examination. In the event of the doctor who has examined a candidate for marriage forming the impression, either by the results of his own examination or by those submitted to him by the State laboratories or medical specialists, that the candidate is afflicted with one of the diseases mentioned in articles 123 and 124, he will not deliver the certificate of health. He will retain in his file the various documents and notify the case to the Government doctor of the locality.

Article 8. The marriage will not be authorised of persons who have the bacillus of Koch in their sputum, or who have tuberculous laryngitis or clinical signs of advanced tuberculosis of a contagious character. To such candidates for marriage will be applied the dispositions of article 124 of the law on public hygiene.

Article 9. Pre-marital examinations will be considered among matters of urgency. The official doctors will, in conducting their examinations, give special precedence to candidates and pathological material which are sent to them with a view to establishing a definite diagnosis.

Article 10. In the State offices, the pre-marital medical examination will be confidentially performed in a special room. A member of the family may be present during the examination of women. The doctors are bound to treat as secret the results of their examinations.

Article 11. Candidates who present themselves for pre-marital medical examination are bound to furnish official documents such as a birth certificate, a passport and an identity card. In the event of doubt being entertained about the authenticity of these documents, the candidate will not be examined before he has established his identity.

Article 12. Private doctors will perform the pre-nuptial examinations in a manner which conforms with the dispositions of the above regulations. They are forbidden to deliver certificates of health without having established the identity and without having examined the candidate.

Article 13. Private and official doctors

who do not conform with the obligations of the present ruling will be punished in a manner which conforms with the dispositions of article 282 of the law on public hygiene. In the event of acts being committed which demand punishments relevant to the Turkish penal code, the dispositions of the Turkish penal code will be applied.

Article 14. This ruling, drawn up by the Council of State, will enter into effect on the date of its publication.

Article 15. The Executive Council of ministers is charged with the administration of the present ruling.

As viewed from the standpoint of this *Society*, the most noteworthy feature of the examinations conducted in Turkey is that eugenic considerations are completely omitted. The law specifies that marriage must not take place if either partner is afflicted with syphilis, gonorrhœa, soft chancre, leprosy, mental disease and transmissible tuberculosis. The candidate for marriage is not asked to furnish any particulars about his ancestry or about his previous medical history. The certificates of fitness are issued solely on the basis of the results of a medical examination.

In this connection, it is perhaps worthy of remark that a *compulsory* exchange of health certificate can only be satisfactorily carried out under such conditions as these. If the examinations are compulsory, it can be taken as certain that there will be many refractory candidates who will be anxious to conceal particulars about their ancestors or past lives. Hence the precaution that the sputum has to be collected in the presence of a doctor, and the rule that the materials for laboratory examination have to be conveyed to the laboratory otherwise than by the person from whom they have been obtained. In such circumstances little reliance can be placed on statements made by the applicants themselves. Only the objective results of a medical examination, conducted by a disinterested person, will provide reliable guidance in issuing certificates of fitness. It is pleasing to observe that the Turkish Government attaches such

importance to questions of public health that it is willing to establish facilities for pre-nuptial medical examination free of charge, and that such examinations are to be regarded by Medical Officers of Health as having priority over their other duties.

GERMANY

Reports have recently appeared in the Press to the effect that certificates of health before marriage are shortly to be made compulsory throughout Germany. At the present time, however, they are only compulsory for persons who apply for marriage loans. Applicants for these are furnished with a leaflet issued by the Ministry of Public Health for the Reich, which stresses the importance of personal health and of racial hygiene, and are expected to fill in a schedule. This consists of four parts:

1. A statutory declaration made by the applicant in the presence of a municipal authority, who refers him to an approved examining doctor.

2. A medical history, to be filled in and signed by the applicant in the presence of the examining doctor. The latter is charged with the responsibility of confirming that the applicant's signature corresponds with that on Part I, the statutory declaration made in the presence of the municipal authority.

3. The medical findings: to be filled in and signed by the examining doctor.

4. The opinion of the examining doctor as to whether the marriage should or should not take place, or should be postponed.

The following is a translation of the schedule:

These sheets are to be collected and sent on the first of each month by the attesting doctor to the Reichsgesundheitsamt, Berlin, Klopstockstr. 18.

Administrative District

Province, district, etc.) Nr.....

I. PERSONAL SHEET FOR CANDIDATES FOR MARRIAGE LOANS

To be filled in by the candidate and given to the examining doctor, after the official testimonial has been given.

Surname & christian name.....
 Born in..... On.....
 Residence.....
 (also Administrative District)
 Street and Number of house.....
 Status or vocation..... Religion*.....
 Nature of school attended.....
 In which class on leaving.....

I have made the above declarations to the best of my knowledge. I further confirm that I will not knowingly make any false declarations to the examining doctor. At the same time, I release this doctor or any other doctors called in from their obligation to silence towards the official authorities who are responsible for decisions connected with the loan.

..... the19
 (personal signature)†

The above personal signature of the applicant(s) is hereby officially witnessed.

The applicant is referred to Dr..... for medical examination.

Stamp..... signature of municipal authority.

Space for remarks by municipal authority and examining doctor.

SCHEDULE FOR INVESTIGATION OF MARRIAGE FITNESS

Surname and christian name of person examined
 Residence.....
 Street and number of house.....

II. PREVIOUS HISTORY

1. Established or supposed cases of weak-mindedness, epilepsy, mental diseases, convulsions, malformations, defects (i.e. inherited blindness, deafness and dumbness, etc.), skeletal deformities, diseases of metabolism, tuberculosis, alcoholism, drug-addiction, suicide, constitutional illnesses, confinement in houses for lunatics, mental defectives or epileptics :

* In case of change of religion, the original religion must be declared.

† The personal signature must only be made in the presence of a municipal authority.

- (a) in grandparents
- (b) „ parents
- (c) „ brothers and sisters of parents and their children.....
- (d) „ brothers and sisters of person examined

2. Chronic infectious or constitutional illnesses (including vocational illnesses), addictions or defects, from which the applicant has him/herself suffered.....

3. By female applicant — Number of pregnancies Live-births.....
 Still-births..... Abortions.....

(Personal signature of applicant)

The signature must be made in the presence of the examining doctor and compared with the signature of the applicant given on page 1.

III. FINDINGS*

- 1. (a) general condition
- (b) skin and visible mucous membranes
- (c) cardiovascular system
- (d) abdominal organs
- 2. State of lungs (if necessary Radiological findings).
- 3. Urine..... Albumen..... Sugar.....
- 4. Signs of venereal disease (if necessary by serological test of blood) Wassermann reaction.....
- 5. Signs of weak-mindedness, epilepsy, mental disease, alcoholism, and drug-addiction.
- 6. Traces of acute infectious disease.
- 7. Traces of other grave infectious disease.
- 8. Are there any good grounds for supposing the applicant incapable of procreation or child-bearing ?

IV. OPINION

- 1. The person examined is fit.....not fitfor marriage.
- 2. Unfitness for marriage is likely to be temporary } on account of.....
 permanent }

* Marriages between persons suffering from hereditary mental or physical diseases, infectious illnesses, or from any other illnesses that threaten life, are not in the interests of national health.

3. Although the state of unfitness for marriage cannot be established for certain, the person examined should be advised against the intended marriage on account of*.....

4. Observations.....
..... the193...
(place)

Signature and qualifications of examining doctor.

* Here are to be taken into account present transitory or chronic conditions, and also the unfavourable combination of particular symptoms of disease in the intended marriage.

It will be observed that the German certificate differs in several important respects from the Turkish. In the Turkish certificate, the applicant is not asked to answer written questions about himself; in the German, such particulars are asked of the applicant. In the Turkish certificate no account is taken of the applicant's family history or of the occurrence among his ancestors or collateral relatives of hereditary diseases or defects; in the German, a comprehensive question is asked upon this subject.

Information from Germany as to the accuracy of the replies submitted by applicants to questions about their family history and medical history is not yet available and it is not clear how German health authorities succeed in checking mis-statements. That the possibility of such mis-statements is anticipated is shown by the footnote to the effect that the signature of the statutory declaration must be examined by the examining doctor and compared with the signature to that part of the questionnaire which relates to the applicant's previous history, which has to be signed in his presence. This precaution is obviously designed to prevent the impersonation of an applicant with bad prospects of satisfying the requirements by a person with good prospects. At the same time, it should be borne in mind that at present these schedules are filled in only by persons applying for marriage loans and it is probable that difficulties arising

from mis-statements would not, in these circumstances, be as frequent as they would if the same questions were asked as a routine in all marriages as a preliminary to allowing the marriage to take place.

From the eugenic point of view the most noteworthy feature of the questionnaire is paragraph 3 of Part III (the doctor's opinion), and the footnote which belongs to it. These, in the original German, read as follows :

“ 3. Obgleich die Befunde eine Eheuntauglichkeit nicht sicher bedingen, ist { dem } Untersuchten von der { der } Eingehung der beabsichtigten Ehe abgeraten worden wegen.* . . .

* Hier sind vorübergehend oder ständig vorhandene Umstände und auch das in der beabsichtigten Ehe etwa ungünstige Zusammentreffen bestimmter Krankheitserscheinungen zu berücksichtigen.”

It places considerable responsibility on the doctor to have to advise against a marriage by reason of a state of unfitness which cannot be established for certain. The vague word “Umstände” presumably covers genetic considerations; and in view of the attitude of the German Government towards marriage between so-called Aryans and Jews, it might also be held to refer to the applicant's race.

NORWAY

A law, passed on May 31st, 1918, prohibits marriage in cases in which one of the parties has syphilis in a contagious form. In the case of other infectious venereal diseases or epilepsy or leprosy the other party must be informed and both parties must be warned of the dangers of the diseases by a physician. A form is issued which has to be signed by both the betrothed persons. No doctor's certificate appears to be required. Nothing is asked about hereditary diseases occurring in the ancestry.

The following is a translation of the questions asked in the schedule employed in Norway :

**CERTIFICATE FROM THE BRIDAL COUPLE IN
CONNECTION WITH THE BANNS**

Before banns can take place, the bridal pair, separately, have to reply—in writing—to the following questions:

1. Are you closely related, or allied by marriage, to your fiancée as mentioned in the marriage law, parts 7 and 8.

Part 7. Marriage must not take place between relatives in straight up- or downwards line (your mother or daughter) or between sister and brother.

Part 8. Marriage must not take place between relatives, one of whom has previously been married to the other's relatives in straight line up- or downwards (e.g. not marry your first wife's mother or daughter).

2. Have you previously been married and if so to whom?
3. Have you illegitimate children and if so how many?
4. Are you suffering from
 - a. Syphilis which is still infectious?
 - b. Other venereal disease which is infectious, from epilepsy or leprosy?

The correctness of my statement is certified by honour,

.....
Date and signature.

Wrong statement may lead to penalties up to 2 years imprisonment according to the Criminal Law, part 166.

HOLLAND

It has been stated in various quarters that legislation with regard to marriage exists in Holland and in Austria. I received a communication from the secretary general of the Minister for Social Affairs at the Hague informing me that certificates relating to marriage and health are not used in Holland.

AUSTRIA

The following is a translation of a letter I have received from a representative of the Bundesminister in Vienna.

Bundesministerium für soziale Verwaltung.
Zi. 117.852-Abt.8/1934.

To the *Eugenics Society*,
69, Eccleston Square,
London, S.W.1.

In the territory of the State of Austria, there was established, in the year 1922, in and for Vienna, a State Marriage Advice Centre. This was 'under the part-time direction of a specialist doctor and was open to all. This Advice Centre has outgrown its original function of an Advice Centre for persons about to be married and finally established itself as a Marriage and Sexual Advice Centre which dispensed information on all questions relating to the sexual life. This Advice Centre did not furnish certificates or references. It confined itself to advising by word of mouth.

The Advice Centre was closed on the 13th February, 1934, and hitherto has not yet opened again. Whether an Advice Centre for persons about to be married will again be established, cannot yet be prophesied.

28 December 1934.

For the "Bundesminister"
MÜLLER.

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